

22 VAC 40-35-10 et seq.

EMPLOYER TAX CREDITS

PART I

INTRODUCTION

22 VAC 40-35-10. Definitions.

22 VAC 40-35-10. Definitions.

The following words and terms, when used in this chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Actively seeking employment" means satisfactorily participating in any assigned job-seeking activity while in the program.

"Adult portion" means the TANF amount paid on behalf of the parent or other caretaker-relative with whom the TANF child resides, including a minor parent. This amount is the difference in the standard of assistance for a family size which includes the adult and the standard of assistance for a family size of one less person.

"AFDC-Foster Care" means a federal program authorized under ? 472 of the Social Security Act (42 USC ? 672) and administered by the Virginia Department of Social Services, which provides financial assistance on behalf of qualifying children.

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"Agreement" means the written individualized Agreement of Personal Responsibility required by ? 63.1-133.49 of the Code of Virginia.

"Allotment" means the monthly food stamp benefit given to a household.

"Applicant" means a person who has applied for TANF or TANF-UP benefits and the disposition of the application has not yet been determined.

"Assistance unit" means those persons who have been determined categorically and financially eligible to receive assistance.

"Caretaker-relative" means the natural or adoptive parent or other relative, as specified in 45 CFR 233.90(c)(1)(v), who is responsible for supervision and care of the needy child.

"Case management" means the process of assessing, coordinating, monitoring, delivering or brokering activities and services necessary for VIEW participants to enter employment or employment-related activities as quickly as possible.

"Case management services" means services which include, but are not limited to, job development and job placement, community work experience, education, skills training, and support services.

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"Case manager" means the worker designated by the local department of social services, a private-sector contractor or a private community-based organization including nonprofit entities, churches, or voluntary organizations that provide case management services.

"Child day care" means those services for which a participant is eligible pursuant to child day care services policy.

"Child day care services/program" means a regularly operating service arrangement for children where, during the absence of a parent or guardian, a person or organization has agreed to assume responsibility for the supervision, protection, and well-being of children under the age of 13 (or children up to 18 years of age if they are physically or mentally incapable of caring for themselves or subject to court supervision) for less than a 24-hour period.

"Community work experience" means work for benefits in a public or private organization that serves a community/public function.

"Division of Child Support Enforcement" or "DCSE" means that division of the Virginia Department of Social Services which is responsible under Title IV-D of the Social Security Act (42 USC ?? 651-669) to locate noncustodial parents, establish paternity, establish child support and health care orders, enforce payment of delinquent support, and collect and distribute support payments.

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"Department" means the Virginia Department of Social Services.

"Diversionary cash assistance" means a one-time lump sum payment to an individual or third-party vendor to prevent long-term receipt of TANF.

"Employer Tax Credit" means a tax credit available to an employer pursuant to § 58.1-439.9 of the Code of Virginia, as amended.

"Family" means a TANF assistance unit.

"Food Stamp Program" means the program administered through the Virginia Department of Social Services through which a household can receive food stamps with which to purchase food products.

"Full Employment Program" or "FEP" means subsidized, training-oriented, employment which replaces the TANF and food stamp benefits of a participant. This component of VIEW is designed to train the recipient for a specific job, increase his self-sufficiency and improve his competitiveness in the labor market.

"Full-time unsubsidized employment" means employment which is considered by the employer to be full time, but in no case less than 30 hours per week, and for which no JOBS, VIEW, TANF, or food

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stamp funds are used to pay the individual's salary.

"Grant" means the monthly TANF benefit payment.

"Hardship exceptions" means prescribed reasons which, if applicable, would allow an extension of receipt of TANF benefits.

"He" means a male or female as applicable.

"Hiring authority" means an individual with the authority to hire employees for a business.

"In loco parentis" means an adult relative or other adult who is acting in place of a parent.

"Incapacitated" means a medically verified condition which renders an individual unable to work.

"Job Opportunities and Basic Skills Training Program (JOBS)" means the program authorized by Title IV-F of the Social Security Act (42 USC ?? 681-687). This program provides education, training and work experience to enhance employment opportunities for TANF recipients who are not exempt from participation.

"Job finding" means identification of available jobs.

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"Job matching" means matching a participant's minimum skills or prior work experience to available job openings.

"Job placement" means placing a participant in an unsubsidized or subsidized job. Job placement is the result of job finding and job matching.

"Job search" means a structured, time-limited period in which the participant is required to search for employment. To complete the job search, the participant must search and apply for a set number of jobs.

"Job skills training" means training in technical job skills or required knowledge in a specific occupational area in the labor market.

"Local agency" or "local department" means any one of the local social services or welfare agencies throughout the Commonwealth which administers the VIP program.

"Minor parent" means any parent under 18 years of age.

"On-the-job training" means training which is provided by an employer during routine performance of a job.

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"Parent" means a mother or father, married or unmarried, natural, or adoptive following entry of an interlocutory order. The parent may be a minor parent.

"Participant" means a TANF or TANF-UP recipient who is participating in the VIEW program.

"Participating family" means an assistance unit including a parent who participates in the Virginia Initiative for Employment Not Welfare (VIEW) Program.

"Part-time unsubsidized employment" means employment of at least eight hours but less than 30 hours per week and for which no JOBS, VIEW, TANF, or food stamp funds are used to pay the individual's salary.

"Post-secondary education" means formal instruction at an institution of higher education or vocational school leading to the attainment of a certificate, an associate degree, or a baccalaureate degree.

"Qualified business employer" means an employer whose business employed not more than 100 employees at the time that the employer first hired a qualified employee.

"Qualified employee" means an employee who is a Virginia resident and is a recipient of Temporary Assistance for Needy Families (TANF).

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“Qualified employer” means an employer who may participate in the Targeted Jobs Grant Program by virtue of meeting all of the program criteria for employers.

“Qualified participant” means a Virginia Initiative for Employment not Welfare participant who meets all of the program criteria and may be hired by a qualified employer.

"Recipient" means an individual who is presently receiving a TANF assistance payment or whose eligibility exists even though the assistance payment is zero.

"Recipient family" means an assistance unit in which the caretaker-relative is a parent of the eligible child and the parent's needs may or may not be included on the grant.

“Relative” means spouse, child, grandchild, parent, or sibling of a qualified employer.

"Sanction" means to reduce or suspend a participant's TANF grant or food stamp allotment or both, where applicable, for noncompliance with these regulations or the statute.

"School" means (i) any public school from kindergarten through grade 12 operated under the authority of any locality within this Commonwealth; or (ii) any private or parochial school that offers instruction at any level or grade from kindergarten through grade 12.

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"Support services" means services such as child care or transportation provided to program participants to enable the participant to work or to receive training or education which are intended to lead to employment.

"Temporary Assistance for Needy Families-Unemployed Parent" or "TANF-UP" means the program authorized in § 407 of the Social Security Act (42 USC § 607), § 63.1-105 of the Code of Virginia and administered by the Virginia Department of Social Services, which provides aid to two-parent families with dependent children who are deprived of parental support or care by reason of the unemployment of the parent who is the principal wage earner in financial need.

"Temporary Assistance for Needy Families" or "TANF" means the program authorized in § 406 of the Social Security Act (42 USC § 606) and administered by the Virginia Department of Social Services, through which a relative can receive monthly cash assistance for the support of his eligible children.

"Time limitations" means a specified period of time, under the statute, to receive TANF.

"Transitional support services" means child care, transportation or medical assistance provided to working participants whose TANF has been terminated either voluntarily although still eligible for TANF or involuntarily due to time limitations.

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"Truant" means a child who (i) fails to report to school for three consecutive school days, or for a total of five scheduled school days per month or an aggregate of seven scheduled school days per school calendar quarter, whichever occurs sooner, and no indication has been received by school personnel that the child's parent or guardian is aware of the child's absence, and a reasonable effort by school personnel to notify the parent or guardian has failed; or (ii) is not enrolled in school at any time during the month.

"Underemployed" means working at a job for less than the Federal hourly minimum wage.

"Unsubsidized employment" means employment in which no government funds are used to subsidize directly the wages earned by a participant.

"Virginia Initiative for Employment Not Welfare" or "VIEW" means the Jobs Opportunities and Basic Skills Training Program as implemented in the Commonwealth.

"Virginia Independence Program" or "VIP" means the program in the Commonwealth of Virginia which is made up of the TANF Program and the Virginia Initiative for Employment Not Welfare.

"Virginia Targeted Jobs Grant" means a grant paid to an employer in accordance with § 63.1-25.3 of the Code of Virginia (1950), as amended. ~~"Virginia Targeted Jobs Grant Program" or "VTJG" means a program which pays a grant to employers who hire qualified participants in the Virginia Initiative for~~

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~~Employment not Welfare Program.~~

"Work activity" means participation in unsubsidized employment, FEP, part-time work, community work experience, or on-the-job training.

22 VAC 40-035-125. The Virginia Targeted Jobs Grant Program

A. In order to enhance the employment opportunities of participants, the VIEW Program shall administer a grant program called the Virginia Targeted Jobs Grant Program (VTJG).

1. The Virginia Targeted Jobs Grant Program shall pay a grant not to exceed \$1,000 to participating qualified employers. For the purpose of this section, a qualified employer may not claim a grant if the qualified employee was employed within one year of the date of the current hiring.
2. Participating employers shall sign an agreement with the Virginia Department of Social Services which will outline the program requirements for both the employer and the Commonwealth.

B. In order to be a qualified employee, the individual must have been a recipient of TANF for at least nine months prior to hiring.

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- 1, The employee must be unemployed or under-employed at the time he is hired by the employer.

2. The employee shall not be a relative of the hiring authority. [For the purpose of this section, a relative means a spouse, child, grandchild, parent, or sibling of the employer.

3. The employee must have worked for the employer for at least 1,000 hours during the taxable year.]

4. The employee must have been placed with the employer as a result of his participation in the Department of Social Services? VIEW Program.]

C. In order to make application for the Virginia Targeted Grant Program grant, a participating employer shall complete the application form supplied by the State Department of Social Services. The application form shall be submitted to the Virginia Department of Social Services, Division of Financial Management with certification of the participant's employment for the period in question. The application must be filed no later than the last day of the third ~~[month]~~ ~~quarter~~ following the close of the taxable year for which the grant is claimed. Grants will be awarded by May 30 of each year. [If funds are not sufficient to cover the cost of the VTJGs to which each employer is entitled, each employer will be authorized a credit proportionate to his share of the available funding.] Grants for applications received after April 15 will not

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be awarded until the following fiscal year. A VTJG Certification of Participant Placement must accompany the application.

D. The Commissioner of the Department of Social Services, or his designee, may examine the books, records, and other applicable documents, to determine that the employer has satisfied the above requirements and is eligible for a VTJG.

PART IV

EMPLOYER TAX CREDIT

22 VAC 40-35-126. Employer Eligibility.

22 VAC 40-35-126. **Employer Eligibility.**

A. For taxable years beginning on and after January 1, 1999, a qualified business employer shall be allowed a credit imposed against taxes imposed by Article 2, 6, and 10 of Chapter 3, Title 58 of the Code of Virginia in an amount equal to five percent of the annual salary paid during the taxable year to a qualified employee; however in no case shall the credit exceed \$750 per qualified employee.

B. For the purposes of this section, the amount of any credit attributable to a partnership, electing small business corporation (S corporation), or limited liability company shall be allocated to the individual

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partners, shareholders, or members, respectively, in proportion to their ownership or interest in such business.

C. Any credit not usable for a taxable year may be carried over to the next three taxable years.

The amount of any credit allowed shall not exceed the tax imposed for the taxable year. A credit may not be carried back to a prior taxable year. If a qualified business that is subject to the tax limitation is allowed another credit under another provision of the Code, or has a credit carryover from a preceding taxable year, such employer must first utilize any credit which does not have a carry over provision, and then any credit which is carried forward from a prior taxable year, prior to using a credit allowed under this section.

D. The amount of tax credits available, when added to the amount of grants made to employers under the Virginia Targeted Jobs Grant Program for the fiscal year, shall not exceed the amount appropriated to the Virginia Targeted Jobs Grant Fund as provided in the general appropriation act.

E. No qualified business employer shall be eligible to claim a credit for any taxable year that the employer is the recipient of a grant for the same qualified employee under the Virginia Targeted Jobs Grant Program.

PART V.

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PROCEDURES FOR CLAIMING A

VIRGINIA TARGETED JOBS GRANT OR EMPLOYER TAX CREDIT.

22 VAC 40-35-127. Procedures for Claiming a Virginia Targeted Jobs Grant.

22 VAC 40-35-128. Procedures for Claiming an Employer Tax Credit.

22 VAC 40-35-127. Procedures for Claiming a Virginia Targeted Jobs Grant.

No later than three months following the close of a taxable year, but no later than April 15 of each year, any employer who hires a qualified employee during the taxable year must submit an application for a Virginia Targeted Jobs Grant (VTJG) to the Virginia Department of Social Services, Division of Financial Management, pursuant to 22 VAC 40-35-125.

A. The employer will include on the application:

1. the taxable year for which the qualified employee was hired
2. the employee name and SSN
3. the date the qualified employee was hired
4. total wages paid to the qualified employee during the taxable year
5. total hours worked by the employee during the taxable year
6. the employer federal ID#
7. a statement that the qualified employee was not previously employed by the employer within 12 months of the date the qualified employee was hired

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8. a certification that the employee is not a relative and has worked for more than 1,000 hours at a rate of pay which is at least the minimum wage during the taxable year for which the employer is claiming the VTJG.

B. By May 15 of each year the total amount of VTJGs will be calculated and grants will be issued by the DSS in accordance with 22 VAC 40-35-125 (C).

C. Unused balances for a fiscal year will be issued to qualifying employers as an Employer Tax Credit.

22 VAC 40-35-128. **Procedures for Claiming an Employer Tax Credit.**

A. By April 15 of each year, any qualified business employer who hires a qualified employee during a taxable year beginning on or after January 1, 1999, must submit a Virginia Employer Tax Credit Application Form to the Virginia Department of Social Services, Division of Financial Management.

B. The request will include:

1. a certification that company meets the definition of a qualified business employer as defined in 58.1-439.9 of the code
2. the employee name and SSN
3. the taxable year for which the qualified employee was hired

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4. the date the qualified employee was hired
5. total wages paid to the qualified employee during the taxable year
6. total hours worked by the employee during the taxable year
7. the employer federal ID#

C. After the department calculates and issues VTJG payments, the unexpended VTJG appropriation, as set forth in 22 VAC 40-35-127 C., will be used to determine each qualified employers entitlement to a Employer Tax Credit. Based upon the number of Employer Tax Credit requests received and the balance of VTJG funds, the department will determine the maximum Employer Tax Credits (MTC) allowed, not to exceed \$750 per qualified employee. If funds are not sufficient to cover the cost of the MTC to which each employer is entitled, each employer will be authorized a credit proportionate to his share of the available funding. The department will notify each qualified employer of the Employer Tax Credit allowable for the taxable year which will be the MTC or a lesser amount based upon wages paid or maximum funding available. By June 15 of each year, the department will issue certifications of allowable Employer Tax Credits to each qualified employer. The employer may amend their tax return for the taxable year for which the credit was earned, or may apply the credit to a future year pursuant to ?58.1-439.9of the Code.

- D. The department will notify DPB of the combined VTJG issued and MTC certified in the FY by June 30 of each year.

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PART ~~IV~~ VI

APPEALS

22 VAC 40-35-130. Appeals Process.

FORMS.

DOCUMENTS INCORPORATED BY REFERENCE.

I certify that this regulation is full, true, and correctly dated.

Clarence H. Carter, Commissioner

Department of Social Services

Date: